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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,364	11/14/2003	Stacy A. Hunt	US20030303	9149

173 7590 02/10/2006

WHIRLPOOL PATENTS COMPANY - MD 0750
500 RENAISSANCE DRIVE - SUITE 102
ST. JOSEPH, MI 49085

EXAMINER

GRAY, JILL M

ART UNIT	PAPER NUMBER
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1774

DATE MAILED: 02/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/713,364

Applicant(s)

HUNT ET AL.

Examiner

Jill M. Gray

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) 13-28 and 30-45 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 29 is/are rejected.
- 7) ☒ Claim(s) 3 and 4 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group II in the reply filed on November 29, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Specification

1. The use of the trademarks such as "CHEMFOS" and "POLYCRON" has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2, 5-6, 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Stoddard 1,968,658.

Stoddard teaches a dish rack for an automated dishwasher comprising a metal frame configured to support dishes, an exterior coating covering at least a portion of the

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metal frame and comprising a rubber layer on the metal frame and a polymer layer on said rubber layer, whereby said exterior coating protects the metal frame from corrosion, as required by claims 1-2, 5-6, and 12. See page 1, lines 17-30. The metal frame comprises a wire form having multiple interconnected wires having a bottom wall and a peripheral wall extending upwardly from the bottom wall to form an open-top dish holding recess with tines, per claims 9-11. See Figures. The requirement that the layer be electrocoated is a process limitation which adds no patentable weight to the instant claims.

Therefore, the teachings of Stoddard anticipate the invention as claimed in present claims 1-2, 5-6, and 9-12.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hess et al, US 2001/0032825 A1 (Hess) in view of Stoddard 1,968,658, as applied above.

Hess teaches an automated dishwasher comprising a wash tub having a top, bottom, side, and rear walls, which collectively form an open-faced wash chamber, a door hingedly mounted relative to the wash tub for movement between an open and closed conditions, a dish rack located within the open-faced wash chamber and comprising a metal frame configured to support dishes; and an exterior coating covering

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at least a portion of the metal frame comprising a layer of plastic. See Figure 1 and [005]. Hess does not specifically teach an electrocoated layer on the metal frame or a polymer layer on the electrocoated layer.

As set forth above, the requirement that the layer be electrocoated is drawn to the process of making and does not add patentable weight to the instant claims. Stoddard is as set forth above and teaches a dish rack for an automated dishwasher comprising a metal frame configured to support dishes, an exterior coating covering at least a portion of the metal frame and comprising a rubber layer on the metal frame and a polymer layer on said rubber layer, whereby said exterior coating protects the metal frame from corrosion. It would have been obvious to modify the coated dish rack of Hess by including an additional polymer layer as taught by Stoddard to provide protection to the polymer layer, said protective layer being resistant to conditions met in dishwashing machines.

Therefore, the combined teachings of Hess and Stoddard would have rendered obvious the invention as claimed in present claim 29.

6. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stoddard 1,968,658 as applied above in view of Richart 3,640,747.

Stoddard is as applied above but does not teach the application of polyvinyl chloride or a polyvinyl chloride blend. Richart teaches protective vinyl coatings that are tough, durable, inexpensive and fairly resistant to chemical attacks, wherein said coatings can be used as the coating of dish racks for use in automatic dishwashers. See column 1, lines 8-18 and 33-45. It would have been obvious to one of ordinary skill

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in the art at the time the invention was made, to modify the teachings of Stoddard by substituting the rubber coating with a vinyl coating as taught by Richart, with the reasonable expectation of success of producing a dish rack that is tough, durable, resistant to chemical attacks and inexpensive.

Therefore, the combined teachings of Stoddard and Hess would have rendered obvious the invention as claimed in present claims 7 and 8.

Allowable Subject Matter

7. Claims 3 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

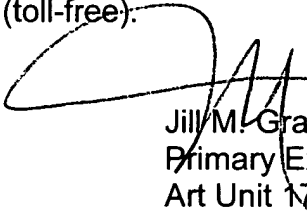
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jill M. Gray whose telephone number is 571-272-1524. The examiner can normally be reached on M-Th and alternate Fridays 10:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jill M. Gray
Primary Examiner
Art Unit 1774

jmg